



NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WASTE MANAGEMENT

January 6, 2000

JAMES B. HUNT JR.
GOVERNOR

BILL HOLMAN
SECRETARY

WILLIAM L. MEYER
DIRECTOR

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Springfield Baptist Church
1322 Baker Road
High Point, North Carolina 27263
Attention: Rev. Bobby Loving

Re: Assessment of Civil Penalty for Violation(s) of 15A NCAC 2N .0405
and NCGS 143-215.94U
Springfield Baptist Church / Facility ID# 0-010779
Guilford County
Enforcement File #: UST 99-086FT

Dear Rev. Bobby Loving:

This letter transmits notice of civil penalty assessed against Springfield Baptist Church in the amount of \$4,100.00, and \$338.43 in investigative costs, for a total of \$4,438.43.

Attached is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me by delegation pursuant to N.C. General Statutes (NCGS) 143-215.6A(h) and NCGS 143-215.94W. Any continuing violation(s) may be the subject of a new enforcement action, including an additional penalty.

Within thirty (30) days of receipt of this notice, you must do one of the following:

1. **Submit payment of the penalty:**

Payment should be made directly to the order of the Department of Environment and Natural Resources (do not include waiver form). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Ms. Jan Hardy
UST Section Enforcement Coordinator
Division of Waste Management
1637 Mail Service Center
Raleigh, NC 27699-1637

OR



UST SECTION

1637 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1637

PHONE 919-733-8486 FAX 919-733-9413

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2. **Submit a written request for remission or mitigation including a detailed justification for such request:**

A request for remission or mitigation is limited to consideration of the reasonableness of the amount of the penalty, and is not the proper procedure for contesting the accuracy of any of the statements contained in the assessment letter. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and stipulation that there are no factual or legal issues in dispute. You must execute and return to this office the attached waiver and stipulation form and a detailed statement which you believe establishes that:

- (a) one or more of the civil penalty assessment factors in G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner;
- (b) the violator promptly abated continuing environmental damage resulting from the violation;
- (c) the violation was inadvertent or a result of an accident;
- (d) the violator has been assessed civil penalties for previous violations;
- (e) payment of the civil penalty will prevent payment for remaining necessary remedial actions.

Please submit this information to the attention of:

Ms. Jan Hardy
UST Section Enforcement Coordinator
Division of Waste Management
1637 Mail Service Center
Raleigh, NC 27699-1637

OR

3. **Submit a written request for an administrative hearing:**

If you wish to contest any statement in this assessment letter, you must request an administrative hearing. This request must be in the form of a written petition, conforming to Chapter 150B of the North Carolina General Statutes. You must file your petition request with:

Office of Administrative Hearings
P.O. Drawer 27447
Raleigh, North Carolina 27611-7447

A copy of the petition must also be served on the Department as follows:

Mr. Dan McLawhorn
Registered Agent
Dept. of Environment and Natural Resources
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Failure to exercise one of the options above within thirty (30) days, [as evidenced by a date stamp (not a postmark) indicating when we received your response], will result in this matter being referred to the Attorney General's Office with a request to initiate a civil action to collect the penalty. Please be advised that additional assessments may be levied for future violations which occur after the review period of this assessment.

If you have any questions, please contact Ms. Jan Hardy at (919) 733-1321.

Sincerely,



Ruth A. Strauss
UST Compliance Branch

Enclosures

cc: Enforcement File
UST Regional Supervisor
Public Information Officer

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
FILE NO. UST# 99-086FT

COUNTY OF GUILFORD)

IN THE MATTER OF:)
SPRINGFIELD BAPTIST)
CHURCH)

FOR VIOLATIONS OF:)
15A NCAC 2N .0405)
NCGS 143-215.94U)

FINDINGS AND DECISION AND
ASSESSMENT OF CIVIL PENALTIES

Acting pursuant to North Carolina General Statutes (NCGS) 143-215.6A by authority delegated to me under NCGS 143B-10, I, Ruth A. Strauss, Underground Storage Tank (UST) Compliance Branch, Division of Waste Management (DWM), make the following:

I. FINDINGS OF FACT:

- A. Springfield Baptist Church is a non-profit organization existing under the laws of the State of North Carolina and in the course of conducting business owns and operates an underground storage tank.
- B. Pursuant to Rule 15A NCAC 2N .0203 of the Environmental Management Commission (EMC), Springfield Baptist Church is the owner of one petroleum UST system located at Springfield Baptist Church, 1322 Baker Road, High Point, Guilford County, North Carolina (hereinafter "the Site").
- C. One (1) gasoline UST system, installed in 1981, is registered with the State as being owned by Springfield Baptist Church. Pursuant to 15A NCAC 2N .0405, owners and operators of UST systems must provide leak detection records (and other records) upon request. Pursuant to NCGS 143-215.94U owners and operators must maintain valid operating permits at facilities where petroleum products are caused to be placed.
- D. On July 3, 1997, and again on March 18, 1998, DWM conducted a leak detection compliance inspection at the Site. On July 22, 1997, and again on June 16, 1998, Springfield Baptist Church was notified to submit leak detection records for the tank and associated piping at the Site. Springfield Baptist Church failed to submit leak detection records as required.
- E. On October 22, 1997, and again on September 22, 1998, DWM sent Springfield Baptist Church a Notice of Violation (NOV) stating that, per 15A NCAC 2N .0405 the owner failed to provide leak detection compliance records as required. The NOV also stated that, per NCGS 143-215.94U Springfield Baptist Church failed to hold a valid operating permit.
- F. Staff costs and expenses associated with detecting the violations, defining their nature and extent and bringing the enforcement action totaled \$338.43.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Springfield Baptist Church is a "person" within the meaning of NCGS 143-215.6A pursuant to NCGS 143-212(4).
- B. UST rules at 15A NCAC 2N have been adopted by the EMC pursuant to NCGS 143-215.3(a)(15).
- C. NCGS 143-215.6A(a) provides that the Secretary of the Department of Environment and Natural Resources may assess a civil penalty of not more than \$10,000.00 per day against any person who violates a rule of the Commission implementing NCGS 143-215.3(a)(15).
- D. Springfield Baptist Church has been in violation of 15A NCAC 2N .0405 from July 3, 1997 to at least November 23, 1999, by failing to submit leak detection compliance records for one UST system, in accordance with the procedures and requirements of the cited rule.
- E. Springfield Baptist Church has been in violation of NCGS 143-215.94U from July 1, 1996 to at least November 23, 1999, by failing to maintain a valid operating permit at a facility where petroleum products were caused to be placed in accordance with the procedures and requirements of the cited rule.
- F. NCGS 143.215.3(a)(9) provides that the reasonable costs of any investigation, inspection or monitoring survey may be assessed against a person who violates any regulations adopted by the EMC.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION

Pursuant to NCGS 143-215.6A in determining the amount of the penalty, I have taken into account the Findings of Fact and Conclusions of Law and have specifically considered each and every factor listed in NCGS 143B-282.1

Accordingly, **Springfield Baptist Church** shall be, and hereby is, assessed a civil penalty of:

\$ 2,000⁰⁰

for violation of 15A NCAC 2N .0405 from July 3, 1997, through at least November 23, 1999, by failing to submit leak detection compliance records For one UST and associated piping, in accordance with the procedures and requirements of the cited rule.

\$ 2,100⁰⁰

for violation of Part B of Article 21A of NCGS 143-215.94U from July 1, 1996, to at least November 23, 1999, by failing to hold a currently valid operating permit in accordance with the procedures and requirements of the cited statute.

\$ 4,100.00

TOTAL CIVIL PENALTY which is <1% percent of the maximum penalty authorized by NCGS 143-215.6A.

\$ 338.43

Investigation costs assessed.

\$ 4,438.43

TOTAL AMOUNT DUE

IV. NOTICE

I reserve the right to assess civil penalties and investigative costs for any continuing violations occurring after the assessment period indicated above. Each day of a continuing violation may be considered a separate violation subject to a maximum \$10,000.00 per day penalty. Civil penalties and investigative costs may be assessed for any other rules and statutes for which penalties have not yet been assessed.

V. TRANSMITTAL

This CIVIL PENALTY ASSESSMENT is directed to be transmitted to Springfield Baptist Church in accordance with NCGS 143-215.6A(d).

12/30/99
Date

Ruth A. Strauss
Ruth A. Strauss, UST Compliance Branch
Division of Waste Management

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION
FILE NO. UST# 99-086FT

COUNTY OF GUILFORD

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Springfield Baptist Church

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REQUEST FOR REMISSION OF CIVIL
PENALTIES; WAIVER OF RIGHT TO
AN ADMINISTRATIVE HEARING AND
STIPULATION OF FACTS

Having been assessed civil penalties totaling \$4,438.43 for violation(s) of 15A NCAC 2N .0405 and NCGS 143-215.94U as set forth in the assessment document of the Division of Waste Management dated 12/30/99, the undersigned, desiring to seek remission of the civil penalties, does hereby waive its right to an administrative hearing in the above-stated matter and does stipulate the facts are as alleged in the assessment document.

This the _____ day of _____, 20____.

SIGNATURE

PRINT NAME

TITLE (President, Owner, etc.)

ADDRESS

TELEPHONE